

7 FAM 1200 LOSS AND RESTORATION OF U.S. CITIZENSHIP

7 FAM 1200 (This is under the OLD Numbering Scheme)

7 FAM 1201 INTRODUCTION

(TL:CON-5; 3-30-84)

a. Questions about loss of U.S. citizenship often come to a consular officer's attention. The officer is required by law to develop cases that involve loss of citizenship. The officer must ascertain when loss has occurred and ensure that a decision of loss of citizenship is made only after the person has been given notice and an opportunity to be heard.

b. The consular officer is usually informed of loss cases, as follows:

(1) By notification from the foreign government that a U.S. citizen has been naturalized;

(2) When a person's passport application indicates that one or more potentially expatriating acts have been performed;

(3) When a U.S. citizen contacts a Foreign Service post to ask about the effect of an act on a person's citizenship status.

7 FAM 1202 AUTHORITY

a. Loss of U.S. citizenship is governed by the Immigration and Nationality Act (INA) of 1952, 8U.S.C. 1101 *et seq.*, effective December 24, 1952, as amended. Section 358 INA requires consular officers to inform the Department whenever they believe persons have lost their U.S. citizenship.

b. Section 358 INA applies to loss of citizenship cases that may arise under Title III INA (Sections 349 to 357 inclusive), Chapter IV of the Nationality Act of 1940 (NA) (Sections 401 to 410 inclusive), and the Act of March 2, 1907.

c. Several court decisions affect significantly the way in which the Department administers loss of nationality laws.

7 FAM 1203 DEFINITIONS

These definitions apply in loss of nationality cases:

(1) "Citizen" means a person who acquired U.S. citizenship at birth or upon naturalization as provided by law. All U.S. citizens are nationals of the United States.

(2) "Citizenship" means the status of being a U.S. citizen. In this chapter, "citizenship" is generally used rather than "nationality" because the former is more widely understood. References to loss of U.S. citizenship also mean loss of nationality.

(3) "Contested case" means a situation involving a potentially expatriating act in which the citizen claims that U.S. citizenship was not lost because the act was not voluntary or that there was no intent to relinquish citizenship.

(4) "Expatriation" means loss of U.S. citizenship and U.S. nationality. It means loss of U.S. nationality when a person is a U.S. national but not a U.S. citizen.

(5) "INA" means the Immigration and Nationality Act, effective December 24, 1952, as amended to September 1, 1980 (Act of June 27, 1952; 66 Stat. 163; 8 U.S.C. 1101 et seq.).

(6) "Intent" means the citizen's carefully considered intent about keeping or giving up U.S. citizenship at the time the potentially expatriating act was performed.

(7) "NA" means the Nationality Act of 1940, effective January 13, 1941, which was repealed by the INA.

(8) "National" means a person on whom U.S. nationality has been conferred and who owes permanent allegiance to the United States. All U.S. citizens are nationals, but U.S. nationals are not necessarily U.S. citizens. For purposes of expatriation, references to U.S. citizens extend to U.S. nationals.

(9) "Nationality" means the status of being a national of the United States.

(10) "Naturalization" means conferring citizenship on a person after birth by any means whatsoever.

(11) "Oath of allegiance" means an attestation whereby a person is bound in conscience to pledge loyalty to a foreign state.

(12) "Potentially expatriating act" means an act which by law is a basis for establishing loss of U.S. citizenship.

(13) "Renunciation" means formal repudiation of U.S. citizenship under Section 401(f), NA and Section 349(a)(5) (formerly Section 349(a)(6)), INA.

(14) "Uncontested case" means a situation involving a potentially expatriating act in which a person indicates to consular personnel that the act was performed voluntarily with intent to relinquish U.S. citizenship, thereby making a finding of loss of citizenship likely (see section 7 FAM 1221 b).

7 FAM 1204 IMMIGRATION AND NATIONALITY ACT OF 1952 (INA)

a. The INA of 1952 provided the first compilation of all immigration and naturalization provisions into one law. As originally enacted, its provisions for revocation and loss of nationality were essentially the same as those of the NA of 1940 but with some differences. When handling revocation or loss of nationality problems, consular officers should refer to the House of Representatives publication, Immigration and Nationality Act With Amendments and Notes on Related Laws, 7th Edition, which was furnished to all posts in 1982. This publication contains the text of the INA, various sections of which are discussed in this chapter.

b. Section 340(d) INA provides that naturalized U.S. citizens who establish permanent residence abroad within 5 years after naturalization may have their naturalization revoked if they fail to present satisfactory countervailing evidence to overcome the presumption arising under this law that such a citizen, at the time of filing the petition for naturalization, lacked the requisite intention to reside permanently in the United States. Such revocation is based on a person's presumed concealment of a material fact or by willful misrepresentation. As originally enacted by Congress, the law resulted from concern over the number of aliens who entered the United States to become naturalized and then returned to their former residence abroad or to another foreign country. A number of delicate international problems may arise if such a person should attempt to avoid the obligations of the foreign country, such as military service or paying income taxes.

c. In recent years a diminishing number of Section 340(d) cases have been approved by the Department of Justice and the courts. There were 41 citizenship revocations in 1961, but fewer than five were approved in 1982. The courts are reluctant to denaturalize U.S. citizens except in the most clear-cut cases.

d. U.S. law requires consular and diplomatic officers to furnish to the Department the names of persons within their jurisdiction who have taken up permanent residence within 5 years of naturalization and who have not overcome the presumption with countervailing evidence. Consular officers have the final responsibility for deciding whether to prepare an affidavit stating that a permanent foreign residence has been established. If the Department has requested an investigation, the final responsibility still rests with the consular officer. In these cases, the consular officer follows procedures set forth in section 7 FAM 1260 .

7 FAM 1205 NATIONALITY ACT OF 1940 (NA)

a. The Nationality Act of 1940 (NA), effective January 13, 1941, listed ways persons could expatriate themselves. The NA was in effect until replaced by the INA, effective December 24, 1952. The NA applied to potentially expatriating acts while that Act was in effect. See Section 358, NA.

7 FAM 1206 EARLY CITIZENSHIP LAW

a. The Enrollment Act of 1865 was the earliest U.S. law dealing with loss of citizenship. It dealt with deserters, draft evaders, and persons who had served the Confederacy.

b. The Expatriation Act of 1868, Section 1999 of the Revised Statutes, established the principle of expatriation as the right of the people, but it did not specify the conduct by which this right might be exercised.

7 FAM 1207 COURT DECISIONS

Some laws thought to expatriate citizens have been declared unconstitutional by Federal courts. Some court decisions have declared specific laws null and void retroactively. A few citizenship cases that have affected the Department's administration of Federal laws are discussed briefly below.

a. U.S. v. Wong Kim Ark, 164 U.S. 644 (1898). This U.S. Supreme Court case held that Congress had no power to restrict the acquisition of citizenship conferred at birth in the United States; a person born in the United States of Chinese citizen parents was a U.S. citizen under the Fourteenth Amendment and therefore not subject to the Chinese Exclusion Act; and although Wong Kim Ark could "renounce this citizenship and become a citizen of... any other country," he had never done so. Conduct constituting renunciation of citizenship was not defined. This was the law until the Expatriation Act of 1907 took effect.

b. Nishikawa v. Dulles, 356 U.S. 129 (1958). This case involved a dual U.S.-Japanese citizen who had been held to have lost U.S. citizenship by serving in the Japanese army in World War II. The Court held that when the issue of voluntariness is raised, the Government has the burden of proving the voluntariness of the potentially expatriating act and must do so by clear, convincing, and unequivocal evidence. Largely as a result of this decision, Congress enacted Section 349(c) INA creating a rebuttable presumption that a potentially expatriating act was performed voluntarily. Congress thereby modified the Court's decision concerning the burden-of-proof requirement in loss of nationality cases (see section 7 FAM 1215).

c. Afroyim v. Rusk, 387 U.S. 253 (1967). The U.S. Supreme Court declared Section 401(e) NA unconstitutional. This section had held that U.S. citizens expatriated themselves by voting in foreign political elections. Afroyim went beyond Section 401(e) and established the rule that a U.S. citizen has a constitutional right to remain a citizen "unless he voluntarily relinquishes that citizenship." Because of this decision, which was retroactive in effect, most of the substantive analysis in loss of citizenship cases now requires a judgment on whether a person intended to relinquish U.S. citizenship at the time of committing the potentially expatriating act.

d. Vance v. Terrazas, 444 U.S. 252 (1980). The U.S. Supreme Court upheld the constitutionality of Section 349(c) INA establishing a rebuttable presumption that a potentially expatriating act was voluntary. The Court elaborated on its opinion in Afroyim v. Rusk, stating that "the trier of fact must... conclude that the citizen not only voluntarily committed the expatriating act proscribed in the statute, but also intended to relinquish his citizenship." Under the Afroyim rationale, the Terrazas court added that "one is not free to treat the expatriating acts specified in (the statutes) as the indispensable voluntary assent of the citizen." The Court concluded: "In the last analysis, expatriation depends on the will of the citizen rather than on the will of Congress and its assessment of his conduct." The Court noted that a person's intent to relinquish U.S. citizenship could be discerned not only from the person's words but as a fair inference from proven conduct. The consular officer performs this latter task in developing loss cases.

7 FAM 1208 CITIZEN INQUIRIES

a. Many U.S. citizens residing abroad inquire about the effect, if any, their contemplated act of becoming naturalized as citizens of a foreign country will have on their U.S. citizenship status. Persons may also inquire about dual nationality. The information shown in 7 FAM 1208 Exhibit 1208 may be sent in the form of a flyer, if the post desires, in response to such inquiries.

7 FAM 1209 UNASSIGNED

7 FAM 1208 Exhibit 1208

(TL:CON-5; 3-30-84)

Sample of a Flyer, “Advice About Possible Loss of U.S. Citizenship”

ADVICE ABOUT POSSIBLE LOSS OF U.S. CITIZENSHIP

The Department of State is responsible for determining the citizenship status of a person located outside the United States.

Section 349(a)(1) of the Immigration and Nationality Act states that U.S. citizens are subject to loss of citizenship by obtaining naturalization in a foreign country upon their own application. These acts are considered evidence that the persons intended to lose their U.S. citizenship.

In 1967, in the case of Afroyim v. Rusk, 387 U.S. 253, the U.S. Supreme Court declared unconstitutional a section of law that provided for loss of U.S. citizenship by voting in a foreign election. That decision also affected the handling of all other loss of citizenship cases because it stated, among other things, that a citizen of the United States has a “constitutional right to remain a citizen... unless he voluntarily relinquishes that citizenship.”

In January 1980, in the case of Vance v. Terrazas, 444 U.S. 252, the U.S. Supreme Court held that U.S. citizens cannot be found to have expatriated themselves by performing one of the acts listed in Section 349(a) unless they intended to relinquish U.S. citizenship. The Court added that any expatriating acts mentioned in Section 349(a) cannot be considered “conclusive” evidence of such an intent. Therefore, before a decision about loss of nationality is made, the facts of each case are carefully evaluated by the Department with consideration being given to the act of naturalization itself and to fair inferences concerning the person’s intent drawn from conduct and the statements made, particularly those statements made immediately prior to or contemporaneous with the expatriating act.

The issues of intent and of voluntariness cannot be resolved

until a potentially expatriating act has actually been performed. Therefore it is not possible to state in advance that a person will or will not lose U.S. citizenship if that person becomes a citizen of a foreign country. There are also no specific steps one can take in advance of a foreign naturalization that will guarantee retention of U.S. citizenship.

However, a written statement submitted to the Embassy or Consulate in advance, expressing an intent to maintain U.S. citizenship and to continue to respect the obligations of U.S. citizenship, despite one's plans to obtain naturalization in a foreign country, would be accorded substantial weight in a loss of nationality proceeding. Other facts taken into consideration as evidence of an intention to retain U.S. citizenship include continued use of a U.S. passport, continuous filing of U.S. tax returns, and voting in U.S. elections. A statement made or signed in connection with foreign naturalization that reflects renunciation of present citizenship would be considered strong evidence of an intent to relinquish U.S. citizenship and would usually support a finding of loss of citizenship.

Although personal and financial considerations can occasionally provide compelling reasons for obtaining foreign citizenship, these reasons do not, in themselves, constitute evidence of intent to retain U.S. citizenship.

When loss of U.S. citizenship does not occur as a result of a foreign naturalization, dual nationality exists, provided the other country's laws permit that status. It is the Department's position that the laws of _____ (permit) (do not permit) citizens
(Name the country) (Select one verb)

to possess other citizenships. The United States does not officially favor dual nationality as a matter of policy, but does recognize its existence in individual cases.

7 FAM 1210 ESTABLISHING LOSS OF CITIZENSHIP

(TL:CON-5; 3-30-84)

7 FAM 1211 CONSULAR RESPONSIBILITY

a. Section 358 INA authorizes a diplomatic or consular officer to certify facts on which it is believed a U.S. citizen has lost citizenship. Form FS-348 "Certificate of Loss of Nationality" (CLN see 7 FAM 1221 Exhibit 1221b) is used to record and certify loss of citizenship (see section 7 FAM 1220 on preparation of the CLN). When approved, the CLN is the Department's administrative finding on loss of nationality. A copy of the approved CLN is forwarded to the Attorney General, and the diplomatic or consular officer sends a copy to the expatriate.

b. Section 358 INA applies to cases arising under Chapter IV NA, (Section 401 to 410 inclusive) and to Chapter 3, Title III INA (Sections 349 to 357 inclusive). Cases involving loss under the Act of 1907 are rare; when these cases arise, the consular officer should seek advice from the Department.

c. A holding of loss of citizenship can be made only if the person:

- (1) Was a U.S. citizen when the potentially expatriating act was performed;
- (2) Actually performed the act;
- (3) Performed the act voluntarily; and

(4) Had the requisite intent to relinquish U.S. citizenship at the time the act was performed.

d. A CLN is not prepared when citizenship was lost through failure to comply with the retention provisions of former Section 301(b) INS, prior to its repeal, effective October 10, 1978. However, the Department keeps statistical records of these losses, and the consular officer reports the cases to the Department. The name of the person and other details should be reported by a memorandum to the Department (Attention: CA/OCS/CCS).

7 FAM 1212 VERIFICATION OF CITIZENSHIP

Evidence of a person's U.S. citizenship is usually a matter of record in the form of a U.S. passport. In other cases, the consular officer follows the procedures set forth in Section 7 FAM 1321 and Chapter 7 FAM 1100 (on acquisition of U.S. citizenship) to determine whether the applicant is a citizen. The officer should determine whether first-time passport applicants are citizens. If a question arises about the person's citizenship status, the case should be referred to the Department (Attention: CA/OCS/CCS).

7 FAM 1213 SOURCES OF INFORMATION ABOUT POTENTIALLY EXPATRIATING ACTS

A consular officer may learn of a potentially expatriating act directly from the person who appears at the post, or the post may learn about such acts from other sources. In some countries, official publications print the names and former nationalities of naturalized persons. In some countries, the foreign state may notify the post that an individual has become naturalized. The post may learn that a U.S. citizen has accepted an office, post, or employment under the government of a foreign state or has performed some other act that may result in loss of U.S. nationality.

7 FAM 1214 DOCUMENTATION OF POTENTIALLY EXPATRIATING ACTS

A potentially expatriating act should be documented by statements from the foreign government. This is necessary to meet the evidentiary requirements of U.S. courts. When official documentation is not available, the consular officer must so certify in an affidavit and then seek secondary evidence. This procedure will help the Government prepare a foundation for submission of secondary evidence in proving acts of expatriation.

7 FAM 1215 VOLUNTARINESS

a. The concept of “voluntariness” is narrowly construed. It is based on whether the person willfully performed the alleged acts. The question of motivation, that is, the reason for performance of the act is not addressed. The consular officer must be able to discern the nature of “voluntariness” as that term is used in the legal sense. The distinction between voluntariness and intent should not be confused. Voluntariness is not an issue unless involuntariness is strongly suggested by the circumstances of the act. The consular officer must be sensitive to a claim of involuntariness. The word “involuntary” does not necessarily have to be used. An implication to that effect supported by or inherent in circumstances described by the person in conversations or in written communication with the consular officer is sufficient to raise the question.

b. Section 349(b) INA provides for conclusive presumption of the voluntariness if at the time of the act, the person was a national of the foreign state in which the act was performed and had been physically present in the foreign state for a period totalling 10 years or more immediately prior to such act. The Department has not relied on the conclusive presumption of Section 349(b). The officer should develop loss cases on the assumption that the issue of voluntariness will be decided under Section 349(c), INA. Section 349(c) INA provides that the burden of proof to establish loss of nationality is on the person claiming that loss occurred. The act is presumed to have been performed voluntarily. This presumption can be overcome by a preponderance of the evidence.

c. After a reasonable time during which the person was given an opportunity to gather evidence of involuntariness, the consular officer must decide whether to accept or reject a person’s claim of involuntariness. The statutory presumption that the act was voluntary may be rebutted by a preponderance of the evidence. A preponderance of the evidence means that the burden of proof is met if there is slightly more evidence of voluntariness than involuntariness.

d. If the act appears to be voluntary and the officer believes the person has failed to overcome the presumption of voluntariness and the issue of intent has been developed, the officer sends the case along with documentary evidence to the Department. The question of voluntariness should be discussed in a separate paragraph that explains the factors leading to the consular officer’s conclusions.

7 FAM 1216 INVOLUNTARINESS

a. Involuntariness can occur in any situation in which one performs an act against one's fixed will, such as taking an oath of allegiance or signing a naturalization document when one does not want to do so. Such cases are rare except in wartime. However, in some expatriation cases, a person who was subject to extreme pressures may be judged to have acted involuntarily. Nevertheless, courts have been reluctant to characterize as involuntary the action of a person who responded to pressures, however extreme, brought on by a series of voluntary choices. Consular officers are required to keep records of inquiries and conversations in which the person alleged involuntariness.

b. Evidence of involuntariness may consist of:

(1) A detailed sworn statement from the person explaining the circumstances that led to the allegedly involuntary act;

(2) Statements from foreign government officials discussing laws, regulations, or interpretations that required the person's compliance;

(3) Affidavits from persons having firsthand knowledge of the circumstances; or

(4) Evidence that the person protested to the foreign authorities.

c. If the consular officer is satisfied that the person has by a preponderance of the evidence rebutted the presumption that a potentially expatriating act was voluntary, the case should be sent to the Department under cover of a memorandum. The memorandum should discuss the facts supporting or diminishing the claim of involuntariness, and documents relevant to the claim should be enclosed. It is important that the memorandum discuss the person's intent because cases are usually resolved on the basis of intent rather than of involuntariness.

7 FAM 1217 ESTABLISHING LACK OF INTENT

7 FAM 1217.1 Vance v. Terrazas Guidelines

In Vance v. Terrazas, the U.S. Supreme Court reaffirmed and expanded its holding in Afroyim v. Rusk. To find expatriation, the court explained, "the trier of fact must ... conclude that the citizen not only voluntarily committed the expatriating act proscribed in the statute, but also intended to relinquish his citizenship." The court declared that it would not be consistent with Afroyim to treat the expatriating acts specified (in the statute) as the equivalent of or as conclusive evidence of the indispensable voluntary assent of the citizen. "In the last analysis," the court said, "expatriation depends on the will of the citizen rather than on the will of Congress and its assessment of his conduct."

7 FAM 1217.2 Claims of Lack of Intent

A finding of loss of nationality will be possible only if the person's words or conduct clearly show intention to relinquish citizenship. Some acts, although expatriating by statute, are not by themselves indicative of intent to relinquish U.S. citizenship. Examples include:

(1) Marriage to an alien or to an alien ineligible to U.S. citizenship under Section 3 of the Act of March 2, 1907, or Section 3 of the Act of September 22, 1922;

(2) Derivative naturalization in a foreign state by a person under age 21 either upon the application of a parent, guardian, or agent or upon the naturalization of such person's parents in conjunction with failure to comply with the residence requirements of the first proviso of Section 401(b) NA or Section 349(a)(1) INA;

(3) Acceptance of a nationality acquired automatically by operation of law, under Section 2 of the Act of March 2, 1907;

(4) Oaths of allegiance that do not renounce U.S. citizenship or that do not express an exclusive allegiance under Section 2, Act of March 2, 1907, Section 401(b) NA, or Section 349(a)(2) INA, regardless of the language used. In some cases the context in which the oath is taken may show an intent to relinquish U.S. citizenship;

(5) Service in the armed forces of a foreign state not engaged in hostilities against the United States, Section 401(c) NA, or Section 349(a)(3) INA;

(6) Service under the government of a foreign state or political subdivision in a position which is not an important political post, Section 401(d) NA, or Section 349(a)(4) INA;

(7) Seeking or claiming the benefit of the nationality of a foreign state; and

(8) Resumption of foreign nationality or permanent residence abroad under a nationality convention.

7 FAM 1217.3 Steps When Intent Is Lacking

a. It is unlikely that the acts listed above will show intent to relinquish U.S. citizenship, but a consular officer should fully develop a case involving any of these acts when it appears that the act was accompanied by an intent to relinquish U.S. citizenship. The case should be developed in the same manner as one showing intent to relinquish citizenship.

b. The issue is the person's intent when the act was performed and not when subsequent discussions of the potentially expatriating act occurred. Statements and later actions are relevant only to the extent they tend to show the citizen's state of mind at the time of performing the act. If the person lacked intent to relinquish citizenship, later conduct cannot be used to supply the missing intent. If a citizen performs an expatriating act with intent to relinquish citizenship, later conduct cannot restore citizenship or neutralize the act of expatriation.

c. At times, the expatriating act will be accompanied by an explicit statement to officials of a foreign state that the person renounces allegiance to the United States and to any other country. A statement of this kind is less reliable as an indication of intent than a formal renunciation made before a U.S. official, but is entitled to considerable weight. It is important to verify that the renunciatory statement was made and that its significance was apparent to the person making it.

d. If the act is not accompanied by a formal statement of renunciation, determining intent is more difficult. The U.S. Supreme Court noted in Vance v. Terrazas that intent need not be expressed in words; it can also be found "as a fair inference from proven conduct." No formula can be applied mechanically to determine a person's intent. It is possible for a U.S. citizen to obtain foreign naturalization, take an oath of allegiance, or serve in a foreign government and still have the intent to retain U.S. citizenship. To determine whether the person intended to relinquish U.S. citizenship, it is necessary to consider the person's entire course of conduct, particularly that contemporaneous with the expatriating act. No single item of evidence will necessarily control in making a determination.

e. Cases that involve the acts listed above should be developed only to the extent necessary under circumstances known to the consular officer. The person should be asked to complete the questionnaire "Information for Determination of U.S. Citizenship" (see 7 FAM 1217 Exhibit 1217.3e). If satisfied that the person lacked the intent to relinquish U.S. citizenship, the consular officer is authorized to find that loss of citizenship has not occurred. The finding should be stated on Form OF-178S (see 7 FAM 1339 Exhibit 1339.1a) or in a separate registration application and addressed to the Department (Attention: PPT/S/IR).

7 FAM 1218 ESTABLISHING INTENT TO RELINQUISH CITIZENSHIP

7 FAM 1218.1 Examples of Intent

a. Statutory acts indicative of intent to relinquish U.S. citizenship include the following:

- (1) Becoming naturalized on one's own application after attaining age 21;
- (2) Taking a renunciatory or exclusive oath of allegiance to a foreign state or to a political subdivision;
- (3) Serving voluntarily in the armed forces of a state engaged in hostilities against the United States;
- (4) Serving in an important political post in the government of a foreign state;

b. All statutory acts of expatriation may result in loss of citizenship when performed in conjunction with acts indicating an intent to relinquish citizenship, such as those listed in the following items (1) through (9):

- (1) Making renunciatory statements in connection with a potentially expatriating act; the more explicit and formal the statement, the greater its value as evidence;
- (2) Surrendering a U.S. passport to foreign authorities in connection with the potentially expatriating act, return of the passport or other evidence of U.S. citizenship to U.S. authorities or destruction of documents evidencing U.S. citizenship;
- (3) Making statements in connection with tax returns, applications for employment or admission to educational or other institutions, or financial transactions in which the person denies U.S. citizenship;
- (4) Requesting a visa for travel to the United States and/or entering the United States on a foreign passport, especially when the person previously entered as a U.S. citizen;
- (5) Seeking public office in a foreign country or obtaining membership in a political party in a foreign country;
- (6) Using a foreign passport exclusively;
- (7) Failing to register later-born children, especially when children born before the expatriating act were registered;
- (8) Failing to maintain current U.S. citizenship documentation, especially when the person had maintained documentation prior to the expatriating act;

(9) Failing to fulfill the obligations of U.S. citizenship, including, when appropriate, filing tax and other returns and registering for military service.

c. Cases involving any of the 4 statutory acts mentioned in section 7 FAM 1218.1 a must be developed and referred to the Department for a decision by means of a telegram or memorandum. The communication should provide the essential facts, contain an analysis of the factors discussed in section 7 FAM 1218.1 b and, if possible, recommend for or against a finding of loss of citizenship.

7 FAM 1218.2 Consular Letter

a. When it appears that a U.S. citizen has performed a potentially expatriating act, that person's intent toward U.S. citizenship must be ascertained. The questionnaire, "Information for Determining U.S. Citizenship," should be completed by all adult first-time applicants and persons not documented for many years (see 7 FAM 1217 Exhibit 1217.3e).

b. The form is mailed to a citizen with a brief letter explaining why it is being sent and a return envelope. The letter should state that an interview can be arranged if the person wishes to discuss possible loss of citizenship before completing the form (see sample transmittal letter in 7 FAM 1218 Exhibit 1218.2b). The letter should be sent by registered mail, if that service is available; if not available, a similar secure method should be used. The letter should also be sent to persons who do not appear at the post but who the post believes may have expatriated themselves. The form may be reproduced by the post to accompany the letter.

7 FAM 1219 UNASSIGNED

7 FAM 1217 Exhibit 1217.3e

(TL:CON-5; 3-30-84)

Sample of a Questionnaire, "Information for Determination of U.S. Citizenship"

QUESTIONNAIRE

INFORMATION FOR DETERMINING U.S. CITIZENSHIP

The following information is needed to determine your present citizenship status and your entitlement to consular services as a United States citizen. You may wish to consult an attorney before completing this form. If you have any questions about the form, you should discuss them with a member of our consular staff before completing this form. Use extra paper as needed and attach any supporting documents to this form.

1. Name _____
(Last) (First) (Middle)

2. Last U.S. passport issued at _____ on _____
(Place) (Date)

3. Date and place of birth _____

4. If not born in the United States, citizenship was acquired by naturalization on _____ before the _____
(Date) (Name of Court)
court at _____, or birth outside the
(City)
United States to U.S. parent (s).

5. Dates and countries of residence outside the United States since birth.

<u>Dates</u> (From - to)	<u>Country</u>
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

If more space is needed, use additional paper.

6. Answer this question only if at birth you became a citizen of the United States and of another country (for example, if by your birth in the United States you became a U.S. citizen and, because one or both of your parents were citizens of another country, you also acquired that country's citizenship at birth):

Have you sought or claimed the benefits of the nationality of foreign state between December 24, 1952, and October 10, 1975 (examples of such benefits are possession or use of that country's passport, owning property in an area where non-citizens cannot own property, or obtaining employment for which noncitizens are ineligible? Circle

one: Yes No

If you answered "yes," please explain the benefits you sought or claimed:

7. Please circle "Yes" or "No". Have you--

a. Been naturalized as a citizen of a foreign state? Yes No

b. Taken an oath or made an affirmation or other formal declaration of allegiance to a foreign state? Yes No

c. Served in the armed forces of a foreign state? Yes No

d. Accepted, served in, or performed the duties of any office, post or employment under the government of a foreign state? Yes No

e. Renounced U.S. nationality at a U.S. Consulate or Embassy? Yes No

8. If your answer to all the questions asked in item 7 above is "No," please sign here:

Signature _____ Date _____

and return this form to the person who asked you to complete it. If you are completing this form at home, mail it in the enclosed envelope to the Embassy or Consulate.

9. You should be aware that under the United States law a citizen who has performed any of the acts specified in Item 7 with the intention of relinquishing United States citizenship may have thereby lost United States citizenship. If you voluntarily performed an act listed in item 7 with the intent to relinquish United States citizenship, you may sign the Statement below and return this form to us, and we will prepare the forms necessary to document your loss of U.S. citizenship. If you believe expatriation has not occurred, either because the act you performed was not voluntary or because you did not intend to relinquish U.S. citizenship, you should skip to item 10, and complete the remainder of this form.

STATEMENT OF VOLUNTARY RELINQUISHMENT OF U.S. NATIONALITY

I, _____, performed the act of expatriation indicated in Item 7 _____ voluntarily and (a, b, c, d, or e) with the intention of relinquishing my U. S. nationality.

Signature _____ Date _____

10. Please circle "Yes" or "No":

a. Are you a national or citizen of any country other than the United States? Yes No

b. If yes, of what country? ଭାରତ

c. If yes, did you acquire that citizenship by birth in the foreign country? Yes No

by marriage? Yes No

by naturalization or registration on

on ୦୧/୦୫/୨୦୧୫ Yes No
(Date)

Other (explain)? _____

11. a. When did you first become aware that you might be a United States citizen (give approximate date)? _____

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b. How did you find out that you were a citizen of the United States? (For example, did you always know you were a U.S. citizen? If not, when did you learn about your citizenship? Did someone tell you that you were a U.S. citizen?) _____

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12. a. Describe as specifically as you can the act or acts you performed as indicated in item 7 above. For example, by what means or in what sort of proceeding were you naturalized as a citizen of a foreign state? What was the nature of the oath you took? In what foreign army did you serve? What rank did you hold?

What employment did you have and what were your responsibilities?

Indicate precisely when and where the act was performed. _____

b. Describe in detail the circumstances under which you performed the act or acts indicated in item 7 above. Did you perform the act or acts voluntarily? If not, in what sense was your performance of the act or acts involuntary? What was your intent in performing the act or acts? _____

13. Did you know that by performing the act described in item 7 you might lose U.S. citizenship? Explain your answer. _____

Hand, diamond, eye, square, diamond, m, m, square, diamond, eye, cross, square, hand, Hand, eye, cross, square, diamond

diamond, eye, square, diamond

diamond, square, circle, square, m, circle, square, cross, hand, drop, hand, m, cross, diamond, cross, m, square, diamond, wavy, cross, square, hand

Blank lines for writing practice.

14. a. What ties did you have to the country where you performed the act indicated in item 7? For example, at the time you performed the act, did you maintain a residence, did you own property, did you have family or social ties, did you vote?

Hand, Family, Residence, Property, Social ties, Vote
Residence, Family, Property, Social ties, Vote
Property, Social ties, Residence, Family, Vote
Social ties, Residence, Family, Property, Vote
Vote, Residence, Family, Property, Social ties

b. What ties do you retain with the United States? For example, do you maintain a residence, have property, family or social ties, vote, file U.S. income or other tax returns?

Hand, Family, Residence, Property, Social ties, Vote
Residence, Family, Property, Social ties, Vote
Family, Property, Social ties, Residence, Vote
Residence, Family, Property, Social ties, Vote
Property, Social ties, Residence, Family, Vote
Social ties, Residence, Family, Property, Vote
Residence, Family, Property, Social ties, Vote
Property, Social ties, Residence, Family, Vote
Social ties, Residence, Family, Property, Vote

Your answers on this form will become part of the official record in your case. Before signing this form, read over your answers to make certain that they are as complete and accurate as possible. If you would like to provide additional information you believe relevant to a determination of your citizenship status, you may attach separate sheets with that information.

Hand, Family, Residence, Property, Social ties, Vote
Residence, Family, Property, Social ties, Vote
Property, Social ties, Residence, Family, Vote
Social ties, Residence, Family, Property, Vote

(Signature)

(Date)

After signing, return this form to the American Embassy or Consulate in the enclosed envelope. If completing it at a post, return it to the person who asked you to complete it.

7 FAM 1218 Exhibit 1218.2b

(TL:CON-5; 3-30-84)

Sample of a Letter on Loss of U.S. Citizenship



DEPARTMENT OF STATE

Washington, D.C. 20520

1

January 10, 1984

Mrs. Jane B. Dongieux
26 Spring Street
Downsview, Ontario, 2
Canada M3M 253

Dear Mrs. Dongieux:

3

It has come to our attention that on March 21, 1983 you were naturalized as a citizen of Canada.

4

5

It is possible that by performing this act you may have lost your U.S. citizenship under Section 349 (a)(1) of the Immigration and Nationality Act of 1952, as amended. The text of this section of law is enclosed for your information.

6

You should be aware that the U.S. Supreme Court has decided that a person cannot lose U.S. citizenship because of the law mentioned above unless that person intended to relinquish U.S. citizenship when performing the act listed in the statute. Our primary purpose in writing is to learn from you whether you intended to relinquish U.S. citizenship when you became a naturalized citizen of Canada. Please assist us by completing the enclosed questionnaire, "Information for Determination of U.S. Citizenship."

7

8

You may wish to discuss this matter with a consular officer before completing this form. We will be pleased to arrange an appointment if you wish to consult a member of our consular staff. This office is open from 8:15 a.m. to 5:00 p.m. weekdays. It is closed on Saturdays and Sundays, as well as on local and U.S. national holidays. Our telephone number is (416) 595-1700.

9

Sincerely,

/s/



George J. Sanders
American Consul

10

Enclosure:
1. M-321, Text of Law
2. Questionnaire

Guide for Preparation of Letter on Lose of U.S. Citizenship

- ① Use post letterhead.
- ② Include full name and address of addressee to facilitate prompt delivery of the letter.
- ③ Specify the date of naturalization reported to the post.
- ④ Name the country whose citizenship the addressee was reported to have acquired.
- ⑤ State the possibility and legal grounds for loss of U.S. citizenship.
- ⑥ Advise the addressee of the Supreme Court's decision that intent to lose U.S. citizenship is an essential element in a determination of loss of citizenship.
- ⑦ Request that the addressee complete the enclosed questionnaire and return it to the post.
- ⑧ Offer the opportunity for consultation with a consular officer prior to completion of the questionnaire.
- ⑨ Mention the days and hours of service and the post telephone number.
- ⑩ Itemize the enclosures, as a reminder to post personnel to include them with the letter.